IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITR No.597 of 1995
Date of decision:8.11.2006

The Commissioner of Income Tax,(Central) Ludhiana

....Petitioner

versus

M/s. Rockman Cycle Industries (P) Limited,Ludhiana

....Respondent

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. SK Garg narwana, Advocate, for the revenue.
Mr. Akshay Bhan, Advocate, for the respondent-assessee.

JUDGMENT:

Following question of law has been referred for the opinion of this Court by the Income Tax Appellate Tribunal, Chandigarh Bench, Chandigarh (for short, 'the Tribunal) arising out of its order dated 28.6.1994 in MP No.12 of 1994 (in ITA Nos.253 and 264/89), for the assessment year 1985-86:-

> "Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in accepting the miscellaneous petition filed by the assessee under section 254(2) of the Income Tax Act and thereby allowing extra shift allowance on the entire machinery on concern basis?

The claim of the assessee was for triple shift allowance, which was initially declined by the Tribunal. On application under section 254(2) of the Income Tax Act, 1961 (for short, 'the Act') pointing out that the Tribunal had allowed the similar claim in another case, the Tribunal allowed extra shift allowance on the entire machinery on concern basis. It was observed that the earlier order of the Tribunal had not been brought to its notice.

We have heard learned counsel for the parties.

It remains undisputed that the issue has been considered in a

judgment of this Court in ITR No.9 of 1995 (**The Commissioner of Income Tax, Patiala v. M/s Hind Woollen & Hosiery Mills, Ludhiana**) decided on 5.9.2006, in the light of observations of the Hon'ble Supreme Court in **South India Viscose Limited v. CIT,** (1997) 227 ITR 286 and has been decided against the revenue and in favour of the assessee.

Accordingly, the question referred is answered against the revenue and in favour of the assessee.

Reference is disposed of accordingly.

(Adarsh Kumar Goel)
Judge

November 8, 2006
'gs'

(Rajesh Bindal)
Judge